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EXAMINER

BELLINGER, JASON R

ART UNIT PAPER NUMBER

3617

DATE MAILED: 03/04/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/022,669

Applicant(s)

KRAMPERA, JIRI

Examiner

Jason R Bellinger

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) 17 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 December 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: .

Election/Restrictions

1. This application contains claims directed to the following patentably distinct species of the claimed invention:

I. Drawn to Figures 3-9, and claims 1-16

II. Drawn to Figure 10, and claim 17

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claims 1 and 17 are generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over

the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

2. During a telephone conversation with Mr. David Spaw on 24 January 2003 a provisional election was made without traverse to prosecute the invention of species I, claims 1-16. Affirmation of this election must be made by applicant in replying to this Office action. Claim 17 is withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Information Disclosure Statement

3. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A (1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

References EP 0,494,277 and JP 3,111,074 referred to in the specification, but not provided have not been considered.

Drawings

4. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference sign(s) not mentioned in the description:

details **a & b**. A proposed drawing correction, corrected drawings, or amendment to the specification to add the reference sign(s) in the description, are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Also, while details **f & h** are present in the specification, there is no definition as to the meaning of the aforementioned details with regards to the drawings.

Specification

5. The substitute specification filed 11 February 2002 has not been entered because it does not conform to 37 CFR 1.125(b) because: page 5 of the clean copy is missing.

6. A substitute specification including the claims is required pursuant to 37 CFR 1.125(a) because the disclosure is replete with grammatical errors, possibly due to a literal translation from a foreign document.

A substitute specification filed under 37 CFR 1.125(a) must only contain subject matter from the original specification and any previously entered amendment under 37 CFR 1.121. If the substitute specification contains additional subject matter not of record, the substitute specification must be filed under 37 CFR 1.125(b) and must be accompanied by: 1) a statement that the substitute specification contains no new matter; and 2) a marked-up copy showing the amendments to be made via the

substitute specification relative to the specification at the time the substitute specification is filed.

7. A substitute specification in proper idiomatic English and in compliance with 37 CFR 1.52(a) and (b) is required. The substitute specification filed must be accompanied by a statement that it contains no new matter.

8. The disclosure is objected to because of the following informalities: It is unclear whether the references to a Campagnolo Record wheel hub on page 9, lines 14-15 and Shimano Deore Xt and LX wheel hubs on page 11, lines 29-30 are referring to exemplary wheel hubs used in comparison with the Applicant's invention, respective patents setting forth wheel hubs being compared to the Applicant's invention, or both.

The section titled "Recommendations, Experiences Up Until Now", beginning on page 20 and ending on page 22 should be removed from the specification due to the fact that it does not contain any information that is directly related to the description and/or prosecution of the invention. The section titled "The Future", beginning on page 22 and ending on page 23 should be deleted from the specification due to the fact that it contains only speculation on future events and therefore does not further the description and/or prosecution of the invention.

Appropriate correction is required.

Claim Objections

9. Claims 2-3 are objected to because of the following informalities: Claim 2 is objected to due to the fact that the phrase "diverges by zero" in lines 3 and 18 should be replaced with the phrase --diverges from zero--. This replacement would correct the fact that the original phrase actually means that there would be no divergence.

Claim 3 is objected to due to the fact that the phrase "ratio of c d" should be replaced with the phrase --ratio of c:d-- in line 5.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

10. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

11. Claims 1-16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 1 is indefinite due to the fact that it is unclear what is actually being claimed in lines 6-11.

Claim 2 is indefinite due to the fact that the phrase "are possibly corrected" makes it unclear whether or not the dimensional values of c and d measured from the hub are or are not corrected when calculating the ratio c:d.

Claim 14 is indefinite due to the fact that it is unclear what is being referred to by the term "it" in line 1 of the claim. The claim is also indefinite due to the fact that it is unclear what is being referred to as "the unaccustomed" in line 3. The claim is further

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indefinite due to the fact that it is unclear what is actually being claimed in lines 2-4, beginning with the phrase "which draws attention to..."

Claim 16 is indefinite due to the fact that it is unclear whether or not it is actually a method claim. The claim doesn't appear to contain any method steps, simply being an equation for standardizing the tensions in asymmetrically spoked wheels.

12. The claims are generally narrative and indefinite, failing to conform with current U.S. practice. They appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors.

13. Claim 1 recites the limitations "the two sides", "the anchoring points", "the hub flanges", and "the sides" in lines 2-3, 3, 4, and 5, respectively. There is insufficient antecedent basis for these limitations in the claim.

14. Claim 11 recites the limitation "the anchoring points" in line 2. There is insufficient antecedent basis for this limitation in the claim.

15. While applicant may be his or her own lexicographer, a term in a claim may not be given a meaning repugnant to the usual meaning of that term. See *In re Hill*, 161 F.2d 367, 73 USPQ 482 (CCPA 1947). The term "eccentric" in claims 13 and 16 is used by the claims to mean "asymmetric," while the accepted meaning, according to the 10th Edition of the Merriam-Webster's Collegiate® Dictionary is "having an axis located elsewhere than at the geometrical center of the object." The Applicant describes the

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present invention as being an "eccentrically spoked bicycle wheel". However it would be more proper to describe the present invention as being an asymmetrically spoked bicycle wheel, since the definition of a symmetrical is "not having a correspondence of shape, size, number and relative position of parts on opposite sides of a dividing line/median plane/about a center or axis".

Claim Rejections - 35 USC § 102

16. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or

(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

17. Claims 1, 3, 6, 11, 15-16 are rejected under 35 U.S.C. 102(e) as being anticipated by Passarotto (6,491,350 B2). Passarotto shows a bicycle 10 having an asymmetrically spoked bicycle wheel having a hub 24 connected by means of tensioned spokes (28a & 28b) to a ring-shaped rim 20. There are an unequal number of spokes (28a & 28b) on each side of the wheel. The center plane 22 of the anchor points of the spokes (28a & 28b) in the rim 20 is laterally displaced from the center plane of the hub flanges. The ratio of spokes 28a, which receive the higher tensile load, to spokes 28b,

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which receive a lower tensile load, is 2:1, respectively. The average tension of the spokes (28a & 28b) is a ration of 1:1.

Claim Rejections - 35 USC § 103

18. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

19. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Passarotto. Passarotto contains all of the limitations as set forth in paragraph 17 above, but does not disclose the distance between the center planes of the hub flanges being at least 58mm. It is well known in the art to create bicycle wheel hubs having dimensions suitable to function properly (i.e. be large enough to structurally meet all physical load bearing requirements) while remaining as light as possible. Therefore from this teaching, it would have been obvious to one of ordinary skill in the art at the time of the invention to provide the bicycle wheel of Passarotto with a wheel hub having suitable dimensions, such as a flange to flange distance of at least 58mm, to allow the hub to be light weight and yet structurally sound.

20. Claims 4-5, 7-10, and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Passarotto as applied to claims 1, 3, 6, 11, 13, 15-16 above, and further in view of Le June. Passarotto does not show the ratio of spokes that receive the

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higher tensile load with respect to the spokes that receive a lower tensile load being anything other than 2:1.

In Figure 5, Le June teaches the use of an asymmetrically spoked wheel wherein the ratio of spokes 10', which receive the higher tensile load, with respect to spokes 8', which receive a lower tensile load, is 5:2 or 5:3. Therefore from this teaching, it would have been obvious to one of ordinary skill in the art at the time of the invention to provide the asymmetrically spoked wheel of Passarotto with differing ratios of higher to lower tensile loaded spokes (such as 3:1, 5:2, 7:4, 5:3, 4:3, etc) as a matter of design choice, depending on the overall weight of the wheel (less spokes equal less weight).

Passarotto also does not show the hub flanges having spoke holes running parallel to the axis of the wheel so that spokes with bent ends can be inserted into the flanges in an assorted combination of ways, provided that each spoke is inserted into the flange from a single direction only. Le June teaches the use of hub flanges having spoke holes that run parallel to the axis of the wheel, wherein spokes with bent ends may be inserted into the flanges in an assorted combination of ways, when each spoke is inserted into the flange from a single direction only. Therefore from this teaching, it would have been obvious to one of ordinary skill in the art at the time of the invention to provide the asymmetrically spoked wheel of Passarotto with hub flanges having spoke holes that run parallel to the axis of the wheel, wherein spokes with bent ends may be inserted into the flanges in an assorted combination of ways, when each spoke is inserted into the flange from a single direction only, for the purpose of providing a means of easy manufacture (thus increasing productivity).

21. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Passarotto as applied to claims 1, 3, 6, 11, 13, 15-16 above, and further in view of Miles et al. Passarotto does not show a bicycle wheel having a sticker on either the hub or rim with suitable text thereon for drawing attention to the wheel.

Miles et al teaches the use of an identification system that comprises a sticker that may have any suitable indicia thereon for drawing attention to a wheel. Therefore from this teaching, it would have been obvious to one of ordinary skill in the art at the time of the invention to provide the asymmetrically spoked bicycle wheel of Passarotto with an attention-drawing sticker for the purpose of providing a means of identification/advertisement/instruction/etc on the wheel, and thus enhancing its visual appeal.

Allowable Subject Matter

22. Claim 2 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

23. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The references are considered to show asymmetrically spoked

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bicycle wheels. For example, Passarotto ('734 B1) shows a wheel of the type described above.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason R Bellinger whose telephone number is 703-308-6298. The examiner can normally be reached on Mon - Thurs (9:00-4:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Morano can be reached on 703-308-0230. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-7687 for regular communications and 703-305-7687 for After Final communications.


Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

Jason R Bellinger
Examiner
Art Unit 3617



jrb

January 24, 2003



S. JOSEPH MORANO
SUPERVISOR, PATENT EXAMINER
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